

MINUTES
DECEPTION DETECTION EXAMINERS BOARD MEETING
March 21, 2007 - 9:00 A.M.
Room 402 - Fourth Floor - Heber Wells Building
160 East 300 South, Salt Lake City, Utah

CONVENED: 1:00 p.m.

ADJOURNED: 2:15 p.m.

PRESENT:

Division Staff:

David Stanley, Division Director
Clyde Ormond, Bureau Manager
Jacky Adams, Board Secretary

Board Members:

| | |
|------------------|---------------|
| Will Draughon | John Pickup |
| Richard Triplett | Lon Brian |
| D Troy Denney | Brent Bullock |

ABSENT:

C.Y. Roby

GUESTS:

Julie Morbi, Thompson Prometric; Ivan Mitchell, U of U Student; Lenore Epstein, Attorney Generals office; Andrew Neff, U of U Student; Layla Simpson, U of U Student; Craig Nielson, U of U Student; Branigan Knowlton, U of U Student; Matt Brooks, U of U Student; Julie Morbie, Thompson Prometric.

TOPICS FOR DISCUSSION:

DECISIONS AND RECOMMENDATIONS:

ADMINISTRATIVE BUSINESS:

Approve the Minutes of the
August 16, 2006 meeting

Mr. Brian seconded by Mr. Triplett made a motion to approve the minutes from the August 16, 2006 board meeting, the motion carried unanimously.

Swear in New Board Member

Mr. Ormond administered the oath of office to Mr. Denney and welcomed him to the Board.

DISCUSSION ITEMS:

Standard of Practice –
Relevant and Irrelevant Testing

Mr. Ormond reminded the Board that at the last meeting this issue had been briefly discussed, and it was determined to table this discussion for further review at this meeting. Mr. Ormond then suggested that this issue might be resolved by the proposed rules changes.

Mr. Bullock explained that R156-64-306, states that unless relevant and irrelevant testing is being used for pre-employment or periodic testing, that a licensee must obtain prior approval by this Board. Mr. Bullock further reminded the Board that they had approved Gordon Barland to perform relevant and irrelevant testing with no restrictions. Mr. Bullock then questioned the Board on what standards should be set for future requests. Mr.

Pickup stated that, due to no standards having been set by the APA (American Polygraph Association), at this point, this could cause a problem for this Board. He then questioned the Board what standards would be appropriate. Mr. Draughon commented that appropriate training should be completed, the Board agreed. Mr. Pickup commented that there would need to be more rules changes prior to the standards being set. Mr. Ormond suggested having Ms. Epstein research this topic and report to the Board her findings, Ms. Epstein agreed. Mr. Brian commented that this practice should be limited to sex offender and repeat testing.

Mr. Draughon agreed to research what types of tests the Federal Government is using. Mr. Bullock seconded by Mr. Brian made a motion to table this issue until the next meeting on August 15, 2007, for further discussion, the motion carried unanimously.

Voice Stress Review

Mr. Triplett reminded the Board that 58-1-307(1)(j) restricts anyone who is not a Peace Officer from performing CVSA (Computerized Voice Stress Analysis). He then explained that in 2001 the Division had been made aware that St. George Police Department had individuals who were not Police Officers performing CVSA. A letter was sent requiring them to only allow Peace Officers to perform CVSA. The Chief of Police contacted the Attorney General's Office, the Attorney General responded stating that, the letter was unenforceable. Ms. Epstein commented that the Attorney General's Office does not make the laws and cannot make the type of determination that Mr. Triplett is describing. Ms. Epstein asked Mr. Ormond if the Division had obtained a written opinion, Mr. Ormond commented that they had not. Ms. Epstein then explained that unenforceable is different than not prosecutable. However, she would review the law and give a written opinion to Mr. Ormond prior to the next Board Meeting on August 15, 2007.

Mr. Triplett then explained that there was an individual who was not a Police Officer who was performing CVSA, adding that the person has since left this State. However, he felt that a Statute change should take place to better enforce the law. Mr. Ormond agreed reminding the Board that this change must go to legislature for approval. Mr. Ormond then questioned Ms. Epstein if the Statute could be changed to allow CVSA. Ms.

Epstein commented that she would review the statute and notify Mr. Ormond of her findings.

Mr. Pickup then reminded the Board that if they knew of any Unprofessional Conduct to notify the Division and they would investigate the allegations.

Mr. Triplett made a motion to re-write 58-64-304 to allow CVSA for only Peace Officers who have been properly trained. There was not a second and the motion failed. Mr. Draughon then commented that if a Peace Officer is violating a DOPL (Division of Occupational and Professional Licensing) statute it was up to POST (Peace Officer Standards and Training) to enforce it. Mr. Triplett agreed that it might be a POST issue.

Proposed Rule Discussion

Mr. Pickup explained that there have been some changes to the proposed rules as follows:

- R156-64-102: Definitions have been added or reworded to better define the profession.
- R156-64-202: Was added to create an Education Peer Committee to evaluate a deception detection intern's performances.
- R156-64-302a: Was edited to remove the fingerprint requirement, due the Division not having statutory authority to perform background checks on the profession.
- R156-64-302b: Has been slightly reworded to allow "other investigative experience" to qualify for licensure.
- R156-302d: Was added to define "Supervision Requirements".
- R156-64-302e: Was added to define "Internship Chart Reviews".
- R156-64-303: Was amended to allow an Intern to renew their license two times, prior to board approval.
- R156-64-306: Was stricken due to the Division not having statutory authority to require a clear criminal history.
- R156-64-502: Was amended to better define "Unprofessional Conduct"

Mr. Draughon commented that the change to R156-64-302a and R156-64-306 should be left within the Rule and the Statute should be changed to require a Criminal History check, for all licensees. His suggestion was based on protecting public safety. Mr. Ormond

commented that if the profession wanted to require Criminal History checks for all Deception Detection Interns and Examiners, 58-1 would need to be amended. Mr. Pickup commented that the UPA (Utah Polygraph Association) would be meeting soon; the issue would be discussed at that time.

Mr. Brian commented that R156-64-502 (18) and (19) might be an issue. He stated that a Deception Detection Examiner is not required to hold a medical degree. With the volume of individuals currently undergoing counseling, how would the examiner know who could not undergo an examination. Mr. Draughon commented that he leaves this up to the individual; he asks if they feel that they can undergo the examination. Mr. Pickup added that the decision should be based on the examiners reasonable opinion, whether an individual could safely undergo an examination, based on their medical history.

Mr. Bullock seconded by Mr. Brian made a motion to approve the current proposed rules changes, the motion carried unanimously.

CORRESPONDENCE:

Utah Exam Pass Rates

Reviewed, with no further action taken.

Deseret Morning News Article
– An Outrageous Position

Reviewed, with no further action taken.

NEXT SCHEDULED MEETING:

August 15, 2007

September 19, 2007

DATE APPROVED

(ss) John Pickup

CHAIRPERSON, DECEPTION DETECTION
EXAMINER BOARD

September 19, 2007

DATE APPROVED

(ss) Clyde Ormond

BUREAU MANAGER, DIVISION OF
OCCUPATIONAL & PROFESSIONAL LICENSING